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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

CADENCE DESIGN SYSTEMS, INC., a
Delaware Corporation

Plaintiff,
v.

INTELLIGENT AUTOMATION (ZHUHAI)
CO., LTD., a Chinese Limited Liability
Company,

Defendant.

Civil Action No. 5:24-cv-7031-PCP

**NON-PARTY XUEJIAN WEI'S NOTICE
OF MOTION AND MOTION TO QUASH
SUBPOENAS**

Date: May 29, 2025
Time: 10:00 a.m.
Courtroom: 8
Judge: Hon. P. Casey Pitts

INTRODUCTION

Non-party Xuejian Wei (“Wei” or “Movant”), by and through his undersigned counsel, Paul Law Group, A Professional Corporation, notices and brings this motion pursuant to Rules 45 and 26 of the Federal Rules of Civil Procedure (“FRCP”) to quash two third-party subpoenas dated March 31, 2025, by Plaintiff Cadence Design Systems, Inc. (“Plaintiff” or “Cadence”). The hearing for this motion is scheduled for May 29, 2025 at 10:00 a.m. Movant’s counsel has inquired of Plaintiff’s counsel whether Plaintiff is willing to consolidate the hearing for the present motion with the hearing for the motion to quash a subpoena filed on behalf of non-party Intelligent Automation Technologies, Inc. (“IAT”) (*See* Ct. Docket 23 (hearing scheduled for May 15, 2025)), but as of the time of the filing of the present motion has not received a response from Plaintiff’s counsel regarding this request.

Movant is a non-party to this action, and appears as a movant to request that the Court quash a subpoena for a deposition and a subpoena for documents that Plaintiff apparently attempted to serve upon Wei in this matter by improper substituted service. *See Exhibits 1 and 2*. Part of the basis for the present motion to quash the subpoenas issued to non-party Wei is identical to the basis for the motion to quash the subpoena for documents issued to non-party IAT in that the arguments related to the absence of a properly served defendant in this case and the attendant failure to ensure mandated procedural protections for non-parties are in essence the same, as they apply equally at present to any non-party to the action. The other basis for the present motion is that Plaintiff did not effectuate proper service of the subpoenas on Wei.

BACKGROUND

As reflected in the record, on October 7, 2024, Plaintiff filed a complaint for copyright infringement and breach of contract against Intelligent Automation (Zhuhai) Co., Ltd. (“ZHUHAI”), “a company organized and existing under the laws of the People’s Republic of China.” Compl. ¶ 3. *See* Ct. Docket 1. Thereafter, on October 23, 2024, Plaintiff attempted to serve ZHUHAI the Summons and Complaint through service on IAT pursuant to FRCP 4(h)(1)(A)-(B). *See* Ct. Docket 12. At that time, counsel for IAT explained to Plaintiff’s counsel that such service was ineffective because IAT was never a general manager for ZHUHAI, that IAT is a separate

1 entity, and that IAT could not accept service on behalf of the Defendant on this basis. On December
2 6, 2024, Plaintiff filed a supplemental proof of service alleging an attempt to personally serve
3 ZHUHAI in China. *See* Ct. Docket 13. Following these events, Plaintiff filed a request for entry of
4 default against ZHUHAI, which was entered December 13, 2024. *See* Ct. Docket 15 (modified Dec.
5 16, 2024).

6 Following a case management conference in which ZHUHAI did not make an appearance,
7 Plaintiff brought an administrative motion requesting the Court to open discovery pursuant to FRCP
8 26(d)(1), which allows a party to open discovery prior to a case management conference following
9 a court order. *See id.*; Ct. Docket 19. In its motion, Plaintiff claims discovery is needed to “confirm
10 whether any other entities are involved in the misconduct alleged in the Complaint” and to
11 determine the amount of ZHUHAI’s revenue. *See* Ct. Docket 19 at 3. This motion was granted in
12 an Order dated January 28, 2025. *See* Ct. Docket 20.

13 Following entry of the Court’s Order, Plaintiff appears to have attempted to serve by
14 substituted service on non-party Wei two third-party subpoenas late in the evening on April 3, 2025.
15 True and correct copies of the subpoenas that Plaintiff appears to have attempted, improperly, to
16 serve upon Movant are attached as Exhibits 1 and 2. Plaintiff appears to have attempted to
17 substitute-serve non-party Wei improperly with a subpoena for a deposition and a subpoena for
18 documents with requests that are identical to the subpoena for documents that Plaintiff issued to
19 non-party IAT. *See Exhibit 2*, 5-6 (internal pagination 1-2); Ct. Docket 23-1, 5-6 (internal
20 pagination 1-2). Wei has timely served (based upon the purported dates of service and production
21 identified in the improper substituted-service) objections for the subpoena for documents to
22 Plaintiff, and brings forth the present motion to quash that subpoena for documents as well as
23 Plaintiff’s subpoena for a deposition of Wei, both of which were served improperly.

24 **ARGUMENT**

25 The third-party subpoenas for a deposition and for documents served on non-party Wei
26 must be quashed because: (A) the named defendant ZHUHAI was not properly served with the
27 Complaint in accordance with the Hague Convention; and (B) the subpoena was not issued in
28 compliance with Federal Rule of Civil Procedure 45 or other applicable service requirements.

1 A. Improper Service of ZHUHAI

2 Plaintiff asserts that ZHUHAI is a foreign entity based in China. *See* Compl. ¶ 3. Before a
 3 federal court may exercise jurisdiction over a defendant, “the procedural requirement of service of
 4 summons must be satisfied.” *Omni Capital Int'l v. Rudolf Wolff & Co.*, 484 U.S. 97, 104 (1987);
 5 *see also Murphy Bros. v. Michetti Pipe Stringing*, 526 U.S. 344, 350 (1999) (“In the absence of
 6 service of process (or waiver of service by the defendant), a court ordinarily may not exercise power
 7 over a party the complaint names as defendant.”). When the validity of service is contested, the
 8 burden shifts to the plaintiffs to demonstrate that service was effectuated in accordance with Rule
 9 4. *Brockmeyer v. May*, 383 F.3d 798, 801 (9th Cir. 2004) (citing A Charles A. Wright & Arthur R.
 10 Miller, *Federal Practice and Procedure* § 1083 (3d ed. 2002 & Supp. 2003)). Neither actual notice
 11 of the litigation nor the mere inclusion of a defendant’s name in the caption of the complaint suffices
 12 to establish personal jurisdiction absent substantial compliance with the service requirements
 13 delineated in Rule 4. *Crowley v. Bannister*, 734 F.3d 967, 975 (9th Cir. 2013) (brackets omitted).

14 To serve the defendant properly, Plaintiff is required to follow Federal Rule of Civil
 15 Procedure 4(f) governing the service of a foreign defendant. FED. R. CIV. P. 4. In federal cases,
 16 FRCP 4(h)(2) authorizes service of process on a foreign business in the same manner prescribed
 17 by Rule 4(f). *Id.* at 4(h). Under Rule 4(f) there are three ways to effectuate service. Rule 4(f)(1)
 18 allows service “by any internationally agreed means of service that is reasonably calculated to give
 19 notice, such as those authorized by the Hague Convention on the Service Abroad of Judicial and
 20 Extrajudicial Documents.” *Id.* Rule 4(f)(2) provides instruction in those circumstances where there
 21 is no internationally agreed-upon means, or if an international agreement allows but does not
 22 specify other means, of service. *Id.* This would be most relevant when serving a company in a
 23 country that has not co-signed the Hague Convention. Lastly, Rule 4(f)(3) provides for a wide range
 24 of alternative service methods as it authorizes service “by other means not prohibited by
 25 international agreement as may be directed by the court.” *Id.* Rule 4(f)(3) can only be utilized by
 26 first filing a motion and obtaining a Court order for alternative service.

27 It is clear that ZHUHAI was not properly served. To serve the Defendant properly, Plaintiff
 28 would have to serve process under the Hague Convention, or at the very least, seek alternative

1 service from the Court, before moving on to discovery. The requirements of the Hague Convention
2 are familiar to the Plaintiff, which has previous experience in this jurisdiction with the issue of
3 attempted improper service of a different entity, followed by an impermissible alternative service.
4 *See Cadence Design Sys., Inc. v. Fenda USA Inc.*, 734 F. Supp. 3d 960, 963 (N.D. Cal. 2024)
5 (holding “the [Hague] Convention delineates the exclusive means by which service of documents
6 may occur in the signatory countries”). In that case, Cadence attempted to serve a defendant which
7 was a Chinese entity, Shenzhen Fenda Technology Co., Ltd, and which was the parent company of
8 the U.S. defendant, Fenda USA. The Court denied Cadence’s attempt to serve Shenzhen Fenda
9 through the former attorney of its U.S. subsidiary (Fenda USA). *Id.* 965-66. The Court found it
10 problematic because Cadence provided no evidence that notice to the attorney was reasonably
11 calculated to apprise Shenzhen Fenda of the pending suit. *See id.*

12 Cadence then sought alternative service by email on Shenzhen Fenda Technology Co., Ltd.,
13 the Chinese entity. *Id.* at 966-67. The Court denied Cadence’s motion, finding the “Convention
14 prohibits service through methods not enumerated in its articles.” *See id.* As the Court explained,
15 “the signatories to the Convention have agreed to make its procedures the exclusive mechanism for
16 service of documents abroad, so methods not authorized under the Convention are ‘prohibited by
17 international agreement.’” *Id.* at 965. The court ultimately denied Cadence’s motion for alternative
18 service.

19 The situation at present is similar in the sense that service under the Hague Convention is
20 required and was not followed. After the initial attempted service for the defendant (improperly
21 attempted on non-party IAT) was insufficient, Plaintiff attempted to conduct supplemental service
22 under Rule 4(h)(1)(a) on a purported representative of the defendant. This attempt is invalid as
23 explained by the Court in the *Fenda* case because it is a type of alternative service that is not
24 authorized under the articles of the Hague Convention. *Id.* Moreover, this supplemental service is
25 facially invalid because Cadence is attempting to use supplemental service in China to satisfy Rule
26 4(h)(1)(A). *See* Ct. Docket 13. However, Rule 4(h)(1) specifically provides that service must be in
27 “a judicial district of the United States.” Cadence’s supplemental service was clearly served in
28 China and was thus insufficient service under 4(h)(1).

1 The absence of proper service by Plaintiff on the Defendant ZHUHAI means that the Court
 2 lacks proper jurisdiction allowing issuance of the Order under which the third-party subpoenas to
 3 non-party Wei were served. *See* Ct. Docket 20. Proper service of a defendant is also linked to
 4 procedural protections of non-parties during the process of discovery. Accordingly, the subpoenas
 5 should be quashed.

6 **B. Lack of Compliance with FRCP Rule 45 or Other Applicable Service**
 7 **Requirements**

8 The scope of discovery through Rule 45 “is the same as the scope of discovery permitted
 9 under Rule 26(b).” *Genus Lifesciences Inc. v. Lannett Co.*, No. 18-CV-7603 (WHO), 2019 WL
 10 7313047, at *4 (N.D. Cal. Dec. 30, 2019). The court must limit discovery “if it determines that ‘the
 11 discovery sought is unreasonably cumulative or duplicative or can be obtained from some other
 12 source that is more convenient, less burdensome, or less expensive.’” *Id.* (citing FRCP Rule
 13 26(b)(2)(c)(i)).

14 As a threshold matter, without a properly served defendant in the proceedings, it is
 15 prejudicial to a non-party to be subjected to discovery where the rights of that non-party as
 16 protected, for example, in FRCP 45, are unable to be observed. As a practical matter, those rights
 17 are downstream from the basic need for a defendant to be present in a case and the obligation of
 18 the plaintiff to ensure that this condition occurs.

19 Federal Rule of Civil Procedure 45(c) contains rights in the form of protections for non-
 20 parties served with subpoenas. The first level of protection imposes an obligation on the party
 21 serving the subpoena to “take reasonable steps to avoid imposing undue burden or expense on a
 22 person subject to the subpoena” and states that a court “shall enforce this duty.” See FED. R. CIV.
 23 P. 45(c). FRCP 45(c)(3)(A) provides that “on timely motion, the court by which a subpoena was
 24 issued shall quash or modify the subpoena if it “subjects a person to undue burden.” *Id.*

25 Here, one of Plaintiff’s subpoenas attempts to depose non-party Wei. *See Exhibit 1.*
 26 However, Wei is not a party to this litigation. The subpoena does not contain a single topic defining
 27 the scope of the deposition. In Plaintiff’s other subpoena, Movant Wei has also been subjected to
 28 the same improper document requests as IAT, and the same undue-burden argument applies to the

1 discovery sought from non-party Wei as from non-party IAT. *See Exhibit 2*, 5-6 (internal pagination
2 1-2) (attempting to serve by invalid substitute service non-party Wei with identical document
3 requests served upon non-party IAT, against which Wei has served Plaintiff with objections); Ct.
4 Docket 23-1, 5-6 (internal pagination 1-2).

5 In *Genus*, the court quashed a subpoena issued to a non-party because it found that it
6 constituted an undue burden. The court stated that generally, ““there is a preference for parties to
7 obtain discovery from one another before burdening non-parties with discovery requests.”” *Genus*
8 *Lifesciences Inc.*, 2019 WL 7313047, at *4 (citing *Soto v. Castlerock Farming & Transp., Inc.*, 282
9 F.R.D. 492, 505 (E.D. Cal. 2012) (collecting cases)). The court found that “[w]hen the requesting
10 party has ‘not shown that it attempted to obtain documents from the opposing party in an action
11 prior to seeking the documents from a non-party, a subpoena *duces tecum* places an undue burden
12 on a non-party.’” *Id.* And further, the court in *Genus Lifesciences* stated that ““when an opposing
13 party and a non-party both possess documents, the documents should be sought from the party to
14 the case.”” *Id.* All the information in the requests by Plaintiff are likely in the possession of
15 ZHUHAI, the named defendant in this case. Any discovery, including for a deposition, taken of a
16 non-party should first be subjected to the requirement that a defendant be present in the litigation.
17 More to the point with respect to the procedural protections, in the present case a defendant has not
18 even been properly served, let alone available for the protections of FRCP 45 for non-parties to be
19 implemented as required. It is clear that Plaintiff needs to effectuate proper service of the complaint
20 first.

21 Furthermore, attempted service of the subpoenas at issue in this motion was not proper. The
22 subpoenas at issue here, dated March 31, 2025, were attempted to be served late at night on
23 April 3, 2025, at the residence of non-party Wei who was not present, and with no subsequent
24 mailing to this address received as of the time of the filing of the present motion. The in-person
25 service requirement of the federal rules was not followed, while substituted service in California
26 requires multiple attempts be made, and, further, to be valid, substituted service must also be sent
27 by first-class mail. *See FED. R. CIV. P. 45(b)(1); CAL. CODE CIV. PROC. § 415.20(b); Kremerman v.*
28 *White*, 71 Cal. App. 5th 358, 373 (2021). None of these conditions appear to have been satisfied.

1 Movant's counsel has sought agreement with Plaintiff's counsel to consolidate the dates of
2 the hearings for motions to quash (by non-party IAT which is scheduled for May 15, 2025, and the
3 present motion scheduled for a hearing on May 29, 2025), but has not, as of the filing of this motion,
4 received a response as to this inquiry to consolidate the hearing dates. Movant requests that the
5 hearing for the present motion be consolidated with the hearing for the motion by non-party IAT to
6 quash a subpoena for documents issued by Plaintiff such that both motions are scheduled to be
7 heard on May 29, 2025.

8 **CONCLUSION**

9 For the reasons stated here, Xuejian Wei respectfully requests that the non-party subpoenas
10 improperly served on Movant by Plaintiff be quashed.

11 Dated: April 15, 2025

12 Respectfully Submitted,

13 PAUL LAW GROUP, A PROFESSIONAL
14 CORPORATION

15 By: /s/ Darcy Paul

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1 **CERTIFICATE OF SERVICE**
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I hereby certify that I have on this 15th day of April, 2025, served via the Court's Electronic Case Filing system, a true and correct copy of the foregoing NON-PARTY XUEJIAN WEI'S NOTICE OF MOTION AND MOTION TO QUASH SUBPOENAS and [PROPOSED] ORDER on the Plaintiff.